

## **COUNCIL ON DEVELOPMENT FINANCE**

**January 26, 2009  
PUBLIC HEARING 349**

### **THOSE PRESENT:**

Mr. Andy Lubin, Chairperson  
Steve Biener, Esquire  
Honorable Nancy Cook  
Mr. Tom Gilligan  
Honorable Gregory Lavelle  
Mr. Fred Sears  
Mrs. Richelle Vible

Mr. Alan Levin  
Mr. Gary Smith  
Mrs. Lee Porter  
Ms. Patty Cannon  
Mr. Jeff Stone  
Mrs. Nikki Boone  
Mr. Ken Anderson  
Elio Battista, Jr., Esquire

**ALSO PRESENT:** Representing: **V&S Delaware Galvanizing LLC** – Robert Messler and Jon Pypiak; **Athena Biotechnologies, Inc.** – Gerald J. Quinn, Barry Marrs and Bob Woods; and **Delaware Manufacturing Extension Partnership** – Steven Quindlen, Allan R. Coletta, Brad Walters and Kim Richelle

**LOCATION:** Buena Vista, 661 South DuPont Highway in New Castle, Delaware 19720

**TIME:** 9:00 A.M.

### **CALL TO ORDER**

The meeting was called to order at 9:05 A.M. by Mr. Lubin, Chairperson, on Monday, January 26, 2009.

### **OLD BUSINESS:**

Mr. Biener made a motion that the minutes of the November 24, 2008 Council on Development Finance meeting be approved as presented. Mr. Sears seconded the motion, which was then adopted by unanimous vote.

### **NEW BUSINESS:**

**V&S Delaware Galvanizing LLC (“V&S” or the “Applicant”)** – The Applicant is requesting a matching grant in the amount of \$100,000 from the Delaware Strategic Fund under the Brownfields Assistance program. The Applicant proposes to use the proceeds for the redevelopment of approximately 7.9 acres located at 511 Carroll Drive in New Castle, Delaware (the “Project”).

Mr. Stone presented this request to the Council. Mr. Messler stated that V&S has decontaminated the existing facility. V&S was in operation as of last week. They will be employing 25 people initially. He stated they knew they were going to have some issues in developing the property so they went ahead and developed the facility first.

Mr. Messler stated that V&S has put in approximately \$8.5 million into the property. He stated they got their temporary Certificate of Occupancy last week. They are operating the facility at this point and have about 18 employees at this time. He believes that within three weeks they will be adding another 18 employees. He stated the ultimate goal is 55 employees. He stated V&S was a little behind with the construction but they seem to be progressing well now.

Mr. Messler stated the Dureco Chemical site property has been cleaned up. He stated they are getting final closure from DNREC. He also stated that V&S has a contract to buy the property to the east of them and will be closing on that deal in February.

Mr. Sears asked if they had many contracts at this time. Mr. Messler stated that they are working on the Tapanzee Bridge and are working on a lot of highways, overhead road signs, etc. He stated that V&S deals with all different types of markets such as boat trailer and jet ski lifts, high way work, pharmaceutical work, etc.

He stated that V&S was renting a plant in Philadelphia and is now moving that operation down to the Wilmington facility. Mr. Biener asked how many employees transferred from Fish Town in Philadelphia. Mr. Messler stated that there were five; all the rest were new hires. He stated they just hired a maintenance guy and a book keeper who lived in New Castle.

Mr. Sears asked about the 07 and 08 financials. Mr. Messler stated that V&S is confident they will be positive. Mr. Sears asked if it paid to be in a certain region. Mr. Messer stated that it does. He stated that you can't afford to truck the materials a great distance.

He stated V&S is 100% in environmental compliance. Mr. Smith stated that they have obtained their coastal zone permit.

Mr. Lubin asked if V&S had ownership of the site. Mr. Messler stated it did. Mr. Lubin asked if the other three acres were also owned by Commonwealth. Mr. Messler stated they were. In response to Mr. Lubin's questions, Mr. Messler stated that V&S did receive \$225,000 in HISCA funds.

Mr. Lubin asked if there were any public comments; there were none.

After duly considering, inter alia, the nature of the business, that V&S Delaware Galvanizing LLC is a "certified Brownfield" within the meaning of 29 Del. C. §5028, the Council made the following findings: (i) the Project will contribute to the creation or retention of gainful employment of the citizens of the State, (ii) the Project will serve a public purpose by

contributing to the prosperity, health or general welfare of the State; (iii) the Project will require a capital investment of at least \$10,000, which funds, including the grant proceeds, will be available or expended on the date on which The Delaware Economic Development Authority disburses the requested grant funds; (iv) the Grant will effectuate the purposes of Chapter 50, Subchapter IV of Title 29 of the Delaware Code, and (v) the Applicant is a financially responsible person to the extent required by statute and has not been convicted of a major labor law violation or other illegal conduct involving moral turpitude by any agency or court of the federal government or agency or court of any state in the two-year period immediately prior to the approval of the Applicant's application for assistance. Mr. Sears made a motion that the Council recommend to Mr. Alan Levin, Chairperson, The Delaware Economic Development Authority, approval of a grant in an amount not to exceed One Hundred Thousand Dollars (\$100,000) to be disbursed from the Delaware Strategic Fund, for the Project, contingent upon the Applicant submitting a detailed list of expenditures prior to the release of the funds and upon the approval remaining in effect through and including January 26, 2010. Mr. Biener seconded the motion, which was then unanimously approved.

**Athena Biotechnologies, Inc. ("Athena" or the "Applicant")** - The Applicant is requesting a matching grant from the Delaware Strategic Fund under the Delaware Technical Innovation Program in the amount of \$50,000. Athena's project is intended to develop a new process for converting cellulosic waste into ethanol more economically at its facility located in the Delaware Technology Park in Newark, Delaware (the "Project"). The funds will be used for costs incurred in this effort.

Ms. Cannon presented this request to the Council. She stated that Athena Bio has been involved in life science projects. She stated that Mr. Marrs was the first Executive Director for Fraunhofer and that Mr. Quinn was formerly with Astra Zeneca.

Mr. Woods stated Athena Biotechnologies was created in January 2005. He stated he has been a financial investor since the beginning. Mr. Marrs is the technical founder. They have worked with patents that they have or that they have acquired; one being from Fraunhofer.

Mr. Woods stated Athena works in three different areas: medical, agriculture and bio fuels. In the process of converting cellulosic waste into ethanol more economically than it is currently possible, they hope to eliminate a good portion of the water and energy that is currently required. The main focus has been on how to take costs out of the process. He stated that their engineers believe the cost could be about forty percent less.

Mr. Woods stated that a lot of money has been raised for Athena. He stated that Mr. Marrs' original patent is the cornerstone of the business. He stated that in addition to the angel investors who got them where they are, they did receive a grant from the Department of Energy and an SBIR grant. He stated the Department of Energy wants Athena to do this project and they want to subsidize it.

Mr. Lubin asked if Athena would be working with the government's stimulus package with this project. Mr. Woods stated that they would be. Mr. Lubin asked what was after Phase I. Mr. Woods stated that Phase II is usually \$750,000 and that Phase III is getting into the full commercial stage.

Mrs. Vible asked how confident Athena was on getting the funding. Mr. Woods stated that Athena has done what was asked of them and because of the focus in this area and that their technology speaks for itself; there should not be a problem. He stated that across the board, fifty percent of projects doing SBIRs get the funding. Mr. Woods stated that they are still trying to raise funds and are working with the University of Delaware.

Mr. Marrs stated that this would not be a synthetic product. It could be a crop that you would grow. Mr. Woods stated that Athena is trying to work with different options such as using corn stalks not the corn, etc. He stated that they have talked to the Department of Energy and they are excited. Mr. Marrs stated that one of Athena's partners is an oil company that is paranoid about using a substitute. They are very interested in this type of technology.

Mr. Lubin asked if there were any public comments; there were none.

After duly considering, inter alia, the nature of the business, that the Applicant is a "small business" within the meaning of 29 Del. C. §5035 (b)(3), that the Applicant has won a Phase I award in the Federal SBIR Program, that the Applicant has submitted a proposal for a Phase II SBIR award but has not yet received such award, that the Applicant's principal place of business will be located in the State of Delaware; and that the research to be conducted will benefit the Delaware economy, and other requirements under applicable statutory and regulatory provisions, Mr. Gilligan made a motion that the Council recommend to Mr. Alan Levin, Chairperson of The Delaware Economic Development Authority, approval of a grant in an amount not to exceed Fifty Thousand Dollars (\$50,000) to be disbursed from the Delaware Technical Innovation Program ("DTIP"), to be used for the Project, contingent upon the approval remaining in effect through and including January 26, 2010. Representative Lavelle seconded the motion, which was then adopted by unanimous vote.

**Delaware Manufacturing Extension Partnership ("DEMPEP" or the "Applicant")** - The Applicant is requesting a grant in the amount of \$343,211 from the Delaware Strategic Fund. The Applicant proposes to use the funds to support the DEMPEP which provides technical and business assistance to Delaware firms through on-site assistance, seminars and workshops. DEMPEP is located in Newark, Delaware (the "Project").

Mr. Anderson presented this request to the Council. He stated that he believes DEMPEP is one of the most efficient organizations in the State of Delaware. He stated that DEMPEP has performed extraordinarily and feels it is a critical sector in the State.

Mr. Quindlen stated that DEMEP is in a growing stage. The organization is fifteen years old and it needs to offer the “next step” to its clients. He stated DEMEP served seventy-five clients last year. He stated that under a survey performed by the National Institute of Standards and Technology (NIST), DEMEP did great.

Mr. Walters compared the reference to a chemical reaction earlier in the meeting to what DEMEP does for an industry. Mr. Coletta stated that DEMEP not only works with the manufacturing base but with the business base. He stated DEMEP can work with any company. He stated DEMEP is a tremendous resource of Delaware collaboration with DelTech. Mr. Quindlen stated that DEMEP works with the community college on levels DEMEP doesn’t do such as specifics in welding, safety, etc. DelTech develops programs and DEMEP takes the skills back to company through specific programs. He stated they are currently doing a program on injection molding. The community college has developed a curriculum specifically for injection molding. Mr. Quindlen stated that DEMEP also meets with DEDO to find these opportunities. He stated the trade schools create the worker that the manufacturers will need tomorrow.

Mrs. Vible asked if DEMEP has interaction with the education systems at the high school level. Mr. Quindlen stated that DEMEP has only gotten involved the trade schools. He stated that they have had manufacturers go back to the trade schools to tell them their specific needs which include reading, math, etc. He stated there are always opportunities for improvement.

Mr. Coletta, who is with Siemens Healthcare Diagnostics (“Dade”), stated that Dade identified its need which dealt with maintenance. He stated they knew they needed to extend the knowledge of their mechanics. They worked with the State of Delaware, the Department of Labor, to bring in people who were going to DelTech. He stated the technology needed was probably ten years ahead of DelTech’s current curriculum. He stated Dade ended up going to DelTech and the Vo-Tech and even helped them acquire the right equipment. He stated there was a collaboration of synergies and it worked out very well.

Mr. Lubin asked if there were any public comments; there were none.

After duly considering, inter alia, the nature of the business, its competitive situation in Delaware, its location, the employment and other requirements under applicable statutory and regulatory provisions, the Council made the following findings: (i) based solely on the information supplied by the Applicant and the representations that it has made, the Applicant is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the “Code”) and will use no portion of the Grant funds in an “unrelated trade or business,” as defined in Section 513 of the Code; accordingly, the Applicant is an “exempt person” within the meaning of 29 Del. C. § 5052(7); (ii) the Grant and the Project will effectuate the financing of facilities and activities of an exempt person in order to contribute to the prosperity, health or general welfare of the citizens of the State, Mr. Sears made a motion that the Council recommend to Mr. Alan Levin, Chairperson, The Delaware Economic Development Authority, approval of a grant

in an amount not to exceed Three Hundred Forty-Five Thousand Two Hundred Eleven Dollars (\$345,211) to be disbursed from the Delaware Strategic Fund, for the DEMEP Project and that the approval for the grant remain in effect through and including January 26, 2010. Senator Cook seconded the motion, which was then adopted by unanimous vote.

**Rite Tech Resources, LLC (“Rite Tech”)** - Rite Tech was approved by the CDF for a \$250,000 Strategic Fund Grant and a \$100,000 Strategic Fund Loan. The grant has not been disbursed yet. However, the loan has been active, yet delinquent from June 2008 to date. Rite Tech is requesting a revised Loan Payment Schedule to address the delinquency.

Mr. Smith stated that Rite Tech was hoping to do a lot of business with Dassault and PATS Aircraft but things have not worked out as planned. Therefore, as a result of not being able to meet their projections, DEDO has been contacting them trying to get payments, the company has been visited, and now DEDO has put together a plan to allow Rite Tech some time to get some additional contracts.

There were two options for repayment that Rite Tech has proposed. One option was for Rite Tech to pay interest only, then after a quarterly review, if there was significant advancement, then Rite Tech would be required to start regular principal and interest payments. The other option was monthly payments of \$1,000 to start on February 2009. After a quarterly review, it would be determined if Rite Tech could resume the original payment terms of the loan.

Mr. Smith stated that he feels Rite Tech is in serious trouble with its contracts. He feels the California operation is probably going to be subsidizing the Delaware operation. Mr. Sears asked how many people were at the Delaware operation – Mr. Smith stated there were three employees. They were either sales or engineering positions. He said they were leasing a very large facility.

Mr. Lubin asked Mr. Smith why DEDO would not want to take the \$1,000 a month if DEDO was afraid that they would not survive. Mr. Smith stated DEDO was trying to give them some breathing room.

Mrs. Vible asked if there was a business plan in place and did they have prospects in mind, or were they searching for prospects. Mr. Smith stated that they are hoping to obtain a new contract with Pats. Mrs. Vible asked when that decision would be reached. Mr. Smith stated it would be sometime at the end of February or the beginning of March.

Mr. Gilligan asked if there was a personal guarantee. Mr. Smith stated there was but the assets are in California. The loan was made to Rite Tech Aerospace which is owned by Rite Tech Resources. Mr. Gilligan questioned the officer loan of \$65,000. He wants to make sure that Mr. Salvaleon cannot keep taking money out of the company. Mr. Smith said that had been discussed and Mr. Salvaleon stated he would be willing to abide by that. However, he has not been making payments on the company loan. Mr. Smith said he believes the California

operation has been stretched as much as possible in order to subsidize the Delaware operation. He also said that Mr. Salvaleon does not have a lot of personal resources.

Mr. Battista stated that this is a California entity that wanted to come to Delaware. In order to do that, Rite Tech had to create an LLC. There is an unsecured guarantee from the parent. Mr. Battista stated he is not sure about the property here. He stated if we had to get a judgment that could be a problem. Mr. Battista is not sure if there is actually an LLC Agreement. He stated that there are three employees, principals live in California so if they want to cut and run, DEDO will not get anything. He also stated that if DEDO does the suggested payment option and Rite Tech makes some payments and then fails, Rite Tech could try to recoup the payments made. Mr. Sears asked if DEDO should file a judgment in California now. Mr. Battista stated he has been working on a demand letter – “come talk to us” but not an actual default letter.

Mr. Sears asked how California company was doing. Mr. Smith stated it was not doing well according to the recent conversations with Mr. Salvaleon. In regards to costs that could be incurred, it was questioned whether this loan was worth trying to save.

Mr. Levin suggested looking at the loan in three months and if Rite Tech hasn't met covenants, then the loan would be called. Mrs. Vible feels DEDO should encourage them to make a good faith effort. She asked about the financial condition of Pats. Mr. Smith stated we do not have their financials but knows that there are only two other places that provide the services that Pats does. He said one thing going for Rite Tech is that it is a minority owned business so this should open up some doors for them.

The Council directed Mr. Battista to send a reservation letter – “you are in default, need to come to talk to us. The Council decided to not make any formal amendments to the loan agreement. However, in order to allow the company to have some working capital, Rite Tech would be responsible to make “interest only payments” for the first 3 months beginning February. If Rite Tech were to miss any payments, the loan would automatically go into default, the Council would have to be re-notified, and the loan may be called to address the delinquency. If Rite Tech is able to make interest only payments for the months of February, March and April, regular interest and principal payments would resume in May for the remainder of the loan's term. Regardless of whether or not the loan payments are made or the company is in or is not in default, DEDO staff will present a loan review to the Council in May or before, in case of a default.

Mr. Smith stated there are two other loans that are in trouble. SP&S has missed two and the company could be filing for bankruptcy shortly. The investors are very frustrated and have started calling their loans. Data Management International has missed several payments and has not been returning DEDO's calls. The Council will be kept informed of these situations.

Mr. Levin addressed the Council. He stated he is looking forward to working with them and will appreciate their advice and counsel.

Marketing Plan - Mr. Levin briefly discussed the Marketing Plan of which all of the members have received copies. The Plan has been presented to the private industry. Mr. Levin stated there will be changes but not in the numbers. DEDO will be reviewing what industries are hot and those that are not. He suggested coming back to the Council in February with a final plan. He is asking the Council today to give preliminary approval as required so DEDO can present it to OMBP.

Mr. Sears stated he would love to see some sort of prioritization on particular fields, some indication of the number of individuals that would be assigned to specific clusters in order to have a better handle on it. Mr. Levin stated that the Council can be sure that someone will have ownership of each cluster.

Mrs. Boone stated that were items where there were titles but not individual names. She stated there is an internal document that actually names the projects and the person assigned.

Mr. Biener made a motion that the Council recommend preliminary approval of the 2008-2010 Marketing Plan for the Delaware Economic Development Office, presented at today's Council meeting. Mr. Gilligan seconded the motion, which was then adopted by unanimous vote.

Financial Statements - Mr. Smith distributed Internal Financial Statements for The Delaware Economic Development Authority. He stated that DEDO had worked with the State Auditor's Office in the preparation of the statements. However, the Auditor's office did not submit an opinion with the statements. The Auditor's Office also informed DEDO that they would not be doing the audit again this year for DEDO. Therefore, an outside firm will have to be retained.

The meeting adjourned at 10:40 a.m.

Respectfully submitted,

Lee Porter, Secretary

*LKP*

cc: Members of the Council on Development Finance  
Director Alan Levin  
Elio Battista, Jr., Esquire

The next CDF meeting is scheduled for ***Monday, February 23, 2009*** at 9:00 A.M. at the Delaware Development Office in Dover.